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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/673,114	10/10/2000	Michel Alard	9320.112USWO	9339
23552	7590	03/01/2004	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			SHARMA, SUJATHA R	
		ART UNIT	PAPER NUMBER	
		2684	70	
DATE MAILED: 03/01/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/673,114	ALARD, MICHEL
	<b>Examiner</b>	<b>Art Unit</b>
	Sujatha Sharma	2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 16 January 2004.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-21 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_;  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

1. Claims 1,14,15,16,20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.
2. Claims 1,14,15,16,20 recites, “signal includes atleast one additional channel solely assigned to downlink with no corresponding symmetrical uplink channel, providing in particular high speed data rate transmission”. The examiner is unclear on this underlined limitation since the specification does not clearly explain this limitation.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

1. Claims 1-7,9,11-21 are rejected under 35 U.S.C. 102(a) as being anticipated by Malkamaki [WO 98/02982].

Regarding claims 1,14-16,20 Malkamaki discloses a mobile communication system with a bi-directional channel, main uplink and main downlink channels (see Fig.2, page 6, lines 5-14). Malkamaki further discloses a method where the mobile communication system provides low or medium speed transmission of signaling and control data and information (see page 2, lines 1-28, page 8, lines 7-12, Fig.6). Malkamaki further discloses a method where additional channel is assigned to downlink to provide high-speed data transmission (see page 3, lines 24-30). See also page 8, line 7-page 9, line 10 and page 12, lines 2-13.

Regarding claims 2 and 11, Malkamaki further discloses a method where all or part of the transmission capacity is allocated dynamically to a mobile user. See page 1, lines 23-32, page 2, lines 25-28, page 3, lines 24-30 and page 4, lines 7-21,page 7, lines 28-32 and page 8, lines 13-18.

Regarding claims 3,12 and 13 Malkamaki further discloses a method where the information allowing the retrieval of data intended for a particular user and carried in the additional channel is transmitted among said signaling and control information of the main downlink channel. See page 2, lines 25-28, page 7, lines 28-32 and page 8, lines 13-18, page 12, lines 2-13.

Regarding claims 4,17 Malkamaki further discloses a method where the main channel and the additional channel have synchronous frame structure. See page 2, lines 10-12, page 8, lines 13-14 and page 12, lines 6-7.

Regarding claims 5 and 6, Malkamaki further discloses a method where the additional channel also provides for transmission of signaling and control information. See page 2, lines 14-16.

Regarding claim 7, Malkamaki further discloses a method where the signaling and control information on a broadcast channel are used for both main channel and the additional channel. See page 8, lines 13-18.

Regarding claim 9, Malkamaki further discloses a method of data distribution in the time/frequency space. See page 12, lines 10-13.

Regarding claim 18 and 19, Malkamaki further discloses a reception link including transposition of the received signal to an intermediate frequency and the received signal being said main channel or said additional channel. Further Malkamaki discloses a recovery means of said signaling and control information selectively on the main channel or the said additional channel.

See Figs 1,2,8-10, page 10, line 9-page 11, line 33.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malkamaki [WO 98/02982] in view of Suzuki [EP 786 890 A2].

Regarding claim 8, Malkamaki as treated in claim 1 does not disclose CDMA technology. CDMA technology is well known in the art and the secondary reference Suzuki teaches the use of CDMA communication resource allocation method. See page 2, lines 5-25.

Therefore it would have been obvious to one with ordinary skill in the art at the time the invention was made to use a different communication standard such as the CDMA technology in Malkamaki's invention.

***Allowable Subject Matter***

Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art does not disclose the method of determining the complex envelope of the additional channel as indicated by the equation in the claim.

***Response to Amendment***

3. The amendment filed 1/16/04 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

Claims 1,14,15,16,20 recite, "signal includes atleast one additional channel solely assigned to downlink with no corresponding symmetrical uplink channel, providing in particular high speed data rate transmission".

Applicant is required to cancel the new matter in the reply to this Office Action.

Therefore the rejection of claims 1-21 discussed above is considered proper.

***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

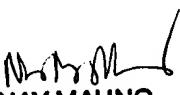
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sujatha Sharma whose telephone number is 703-305-5298. The examiner can normally be reached on Mon-Fri 7.30am - 4.00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 703-308-7745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Sujatha SHARMA  
February 25, 2004

  
NAY MAUNG  
**SUPERVISORY PATENT EXAMINER**